

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THOMAS W. CRIMMINS,

Plaintiff,

-against-

UNITED STATES; J.A. JAMISON;
CARNALES; NICHOLAS CERRA; JOHNSON;
BLAINE; ZURITA,

Defendants.

24-CV-0995 (PMH)

ORDER OF SERVICE

PHILIP M. HALPERN, United States District Judge:

Plaintiff, who is currently incarcerated at FCI Otisville and proceeding *pro se*, brings this action under the Religious Freedom Restoration Act (“RFRA”), 42 U.S.C. § 2000bb-1, and the Federal Tort Claims Act (“FTCA”), 28 U.S.C. § 1346, alleging that Defendants violated his rights during his incarceration at Otisville.

By order dated February 27, 2024, Chief Judge Laura Taylor Swain granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees.¹ Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

² Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

To allow Plaintiff to effect service on Defendants United States of America, J.A. Jamison, Carnales, Nicolas Cerra, Johnson, Blaine, and Zurita through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for Defendants, including checking the box on the USM-285 form labeled “Check for service on U.S.A.” The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the complaint is not served within 90 days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service). Failure to request an extension of time for service will result in this action being dismissed without prejudice pursuant to Federal Rule of Civil Procedure 4(m).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is directed to mail Plaintiff an information package.

The Clerk of Court is further instructed to issue summonses for Defendants United States of America, J.A. Jamison, Carnales, Nicolas Cerra, Johnson, Blaine, and Zurita, complete the USM-285 form with the address for Defendant, check the box on the USM-285 form labeled “Check for service on U.S.A.” and deliver all documents necessary to effect service to the U.S. Marshals Service.

SO ORDERED.

Dated: White Plains, New York
March 26, 2024



PHILIP M. HALPERN
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. United States of America
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
2. United States Attorney for the Southern District of New York
Civil Division
86 Chambers Street, 3rd Floor
New York, NY 10007
3. Federal Bureau of Prisons
320 First Street, NW
Washington, DC 20534
4. Warden J.A. Jamison
FCI Otisville
Two Mile Drive
Otisville, NY 10963
5. Carnales, Food Services Administrator
FCI Otisville
Two Mile Drive
Otisville, NY 10963
6. Nicolas Cerra, Cook Foreman
FCI Otisville
Two Mile Drive
Otisville, NY 10963
7. Johnson, Food Service Staff
FCI Otisville
Two Mile Drive
Otisville, NY 10963
8. Blaine, Food Service Staff
FCI Otisville
Two Mile Drive
Otisville, NY 10963
9. Zurita, Food Service Staff
FCI Otisville
Two Mile Drive
Otisville, NY 10963